

**EXCERPT FROM CHAPTER 159 OF THE ACTS OF 2000**

SECTION 13: Section 38E of said chapter 7, as so appearing, is hereby amended by adding the following subsection:-

(g) The division of capital asset management and maintenance in consultation with the board shall develop a standard designer evaluation form that shall be completed by every public agency, as defined in section 44A of chapter 149, upon completion of the work under a design contract under its control, and submitted to the division and the board for the designer's qualification file. The official from the public agency or the owner's representative as described in section 44A of said chapter 149 shall certify that the information contained on the designer evaluation form represents, to the best of his knowledge, a true and accurate analysis of the designer's performance record on the contract. The public agency shall mail a copy of the designer evaluation form to the designer who may, within 30 days, submit a written response to the division and board disputing any information contained in the form and setting forth any additional information concerning the building project or the oversight of the building construction contract by the public agency as may be relevant to the evaluation of the designer's performance on the contract. The division and board shall attach any such response to the evaluation form for inclusion in the designer's qualification file. No public employee or public employer, as defined in section 1 of chapter 258, and no person shall be liable for an injury or loss to a designer as a result of the completion of a designer evaluation form as required by this section unless the individual completing such evaluation form has been found by a superior court of competent jurisdiction to have acted in a willful, wanton or reckless manner. If a suit is commenced by a designer against any person who has completed a designer evaluation form as required by this section seeking to recover

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damages resulting from injury caused by such evaluation, the public agency for whom such evaluation form was completed or the commonwealth, if such evaluation was completed for a state agency, shall provide for the legal representation of such person. Such public agency or the commonwealth, where an evaluation was completed for a state agency, shall also indemnify such person from all personal financial losses and expenses including, but not limited to, legal fees and filing costs, if any, in an amount not to exceed \$1,000,000, but no such person shall be indemnified for losses other than legal fees and filing costs under this section if such person is found by a court or a jury to have acted in a willful, wanton or reckless manner.

The awarding authority shall provide the designer with a written preliminary evaluation at the completion of the schematic phase of the project for informational purposes.

Any public agency that fails to complete and submit the designer evaluation form, together with any written response by any designer, to the division within 70 days of the completion of a project shall be ineligible for the receipt of any public funds disbursed by the commonwealth for the purposes of public building or public works projects.